



September 17, 2020

BY E-FILE

National Labor Relations Board  
Office of the Executive Secretary  
Roxanne L. Rothschild, Executive Secretary  
1015 Half Street, SE  
Washington, DC 20570

Re: American Medical Response Mid-Atlantic, Inc.  
Case No. 05-CA-221233 . . . . .

Dear Ms. Rothschild:

I represent American Medical Response Mid-Atlantic, Inc. (hereafter, the “Company”) as the Respondent in the above-referenced case. On July 17, 2020, the Board issued a Decision and Order (hereafter, the “Decision”) in which the Board concluded the Company violated the Act in connection with various personnel actions taken against the Charging Party. 369 NLRB No. 125. Notably, the Board’s conclusion was based upon an analysis under Atlantic Steel Co., 245 NLRB 814 (1979), which was overruled by the Board only a few days later in General Motors, LLC, 369 NLRB No. 127 (July 21, 2020), where the Board held that allegations previously analyzed under Atlantic Steel will now be analyzed under the framework established by Wright Line, a Division of Wright Line, Inc., 251 NLRB 1083 (1980).

In response to the Decision, on August 21, 2020, the Company filed a Motion for Reconsideration, where, in relevant part, the Company argued that, because the Board decided to apply General Motors retroactively, 369 NLRB No. 127, slip op. at 10 – 11, the Board should reconsider the case at bar under Wright Line, and upon reconsideration, dismiss the Complaint. The same day, the Company also filed a related Motion for Leave to File an Amended Answer.

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On September 10, 2020, the General Counsel filed Oppositions to the Company's Motions. In the Opposition to the Company's Motion for Reconsideration, the General Counsel took the position that General Motors should not apply to the case at bar because the case was not "pending" at the time the Board issued its Decision in General Motors. On September 14, 2020, I advised Christy Bergstresser, Counsel for the General Counsel, of the Company's position that the General Counsel did not have a good faith basis to argue our case was not a pending case for purposes of the applicability of General Motors. In support of the Company's position, I provided Ms. Bergstresser with a copy of a Notice of Supplemental Authority that was filed by the General Counsel's office in Cadillac of Naperville, Inc. v. NLRB, D.C. Cir. Case Nos. 19-1150, 19-1167, where the General Counsel informed the Court of Appeals of the Board's Decision in General Motors and requested that the proceeding be remanded to the agency so the Board could reconsider under Wright Line an allegation the Board previously analyzed under Atlantic Steel. In light of the contrary position taken by the General Counsel's office before the Court of Appeals, the Company requested that the General Counsel file an amended Opposition in which the General Counsel abandoned any challenge to the applicability of General Motors to the case at bar.

Yesterday, I called Ms. Bergstresser and requested the General Counsel's response to the Company's position. Ms. Bergstresser informed me that the issue had been referred to the General Counsel's leadership and, due to meetings taking place at the agency this week, she was unable to advise as to when, precisely, the General Counsel's response would be forthcoming.

In the circumstances, where there is a lack of certainty in terms of whether the General Counsel will abandon arguments currently set forth by the Opposition to the Motion for Reconsideration, the Company is unable to prepare a Reply to the Opposition. Accordingly, I write to advise of the Company's intention to file a Reply no later than seven (7) calendar days after my receipt of an amended Opposition, or as the case may be, notice of the General Counsel's refusal to file an amended Opposition. The Company would also intend to file by that same date its Reply to the General Counsel's Opposition to the Motion for Leave to File an Amended Answer.



Should you have any questions, please feel free to contact me at (203) 249-9287.

Respectfully submitted,

/s/ \_\_\_\_\_

Bryan T. Carmody

cc: Christy Bergstresser, Counsel for the General Counsel, *via* e-mail  
Mosiah Grayton, Charging Party, *via* e-mail